(17)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.A.No. 184/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.NO. 184/2003

APPELLANTS CLAIMANTS

1. Mukesh Kumar, S/o Ramesh Sonkar, aged 10 years
2. Yashwant Sonkar, S/o Ramesh Sonkar, aged 8 years
3. Ramesh Sonkar, S/o Bhan Sonkar, aged 31 years

Appellants No. 1 and 2 minors, through appellant No. 3 Ramesh Sonkar, All R/o village Rambag Ward, Dhamtari, Distt. Dhamtari (C.G.)

Vs.

RESPONDENTS

1. Chandu Ram, S/o Puranik Sahu, R/o Village Adhari Navagaon, Dhamtari, Distt. Dhamtari
2. Babulal Sharma, S/o Budhram Sharma, aged 42 years, R/o Sihava Chowk, Dhamtari, Distt. Dhamtari
3. The Oriental Insurance Co. Ltd. Behind Amar Talkies, Dhamtari
4. Ghanshyam, S/o Kejuram, aged 30 years, R/o village Mujgahan, Tehsil and Distt. Dhamtari.
5. Harinarayan, S/o Gopal Prasad, aged 35 years, R/o. village Mujgahan, Tehsil and Distt. Dhamtari

12.07.2007

Shri Santosh Bharat, counsel for the appellants.

Shri Abhisek Sinha with Shri Ghanshyam Patel, counsel for respondent No. 3.

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None appears for other respondents.

The matter is listed on default for non-payment of fresh P.F. with correct address for service of summon to respondent No. 5. However, considering that the instant appeal is at the instance of the claimants for enhancement of award and further considering that liability has been fastened upon the respondent No. 3- Oriental Insurance Co. Ltd. which has been served and represented, the service of summon upon respondent No. 3 is dispensed with.

With the consent of the parties, the matter is heard finally.

JUDGMENT

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

The appellants who are husband and sons of the deceased Sumitra Bai have preferred this appeal against the award dated 18th November, 2002 passed in Claim Case No. 191/2002 by the Additional Motor Accident Claims Tribunal, Dhamtari, Distt. Dhamtari whereby a sum of Rs. 1,10,290/- with interest at the rate of 8.5% from 27-7-1999 has been awarded as compensation for death of Sumitra Bai who died on 11-7-1999 as a result of motor vehicle accident dated 24-6-1999 involving Jeep No. CIS 8149 owned by respondent No. 2 Babulal Sharma, driven by respondent No. 1 Chanduram and insured by respondent No. 3 at the relevant time.

2. The grounds urged by the appellants are that the deceased was earning Rs. 1,500/- per week from vegetable vending business,

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

however the Tribunal has assessed compensation by taking monthly income at Rs. 1,500/- per month ignoring oral and unrebutted evidence adduced by the claimants in this regard, wrong multiplier of 10 has been applied even after holding the age of the deceased as 30 years whereas correct multiplier of 17 ought to have been applied as per Schedule II of the Motor Vehicles Act, 1988.

3. On the other hand, learned counsel for the respondent No. 3-insurer submits that in the facts and circumstances of the case, the Tribunal has correctly assessed the compensation payable to the appellants.

4. I have heard learned counsel for the parties.

5. From the evidence available on record, it is evident that no documentary or oral evidence has been led by the claimants regarding income of deceased Sumitra Bai except the statement of the claimants on oath that the deceased was earning Rs. 1500/- to 2000/- per week from her business and considering this fact, the Tribunal has assessed the monthly income of the deceased at Rs. 1500/- per month which is according to the opinion of this Court in the facts and circumstances of the case proper and does not call for any interference. However, the Tribunal has calculated compensation by applying multiplier of 10 though as per Schedule II of the Act, for the age of 30 years, multiplier of 17 is to be applied. Further the Tribunal has also deducted Rs. 200/- per month towards pocket

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

expenses in addition to Rs.500/- towards the expenditure which she would have otherwise incurred on herself, had she been alive. Therefore, assessing the income of the deceased at Rs. 18,000/- per annum and deducting 1/3 i.e. Rs. 6,000/- towards her personal expenditure had she been alive, the annual dependency is assessed at Rs. 12,000/- per annum. Applying multiplier of 17, loss of dependency is assessed at Rs. 2,04,000/-. The deceased was hospitalized from 24-6-1999 to 11-7-1999 i.e. 16 days, therefore looking to the period of hospitalization, it would be appropriate if a sum of Rs. 10,000/- is awarded towards the expenditure on treatment of the deceased. The sum of Rs. 10,000/- awarded by the Tribunal on other heads i.e. loss of consortium and love and affection is proper and does not call for interference.

6. In the result, the appeal is partly allowed and appellants-claimants are awarded a total sum of Rs. 2,24,000/- in place of Rs. 1,10,290/-, in other words, additional sum of Rs. 1,13,710/- is awarded to the claimants. The above amount shall carry the interest at the rate as awarded by the Tribunal and the amount shall be disbursed to the claimants in the same proportion as awarded by the Claims Tribunal within two months.

Sd/-
Dhirendra Mishra
Judge

[पीछे देखिये